

Union Calendar No. 476

108TH CONGRESS
2D SESSION

H. R. 4251

[Report No. 108-775]

To amend various laws relating to maritime transportation, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 30, 2004

Mr. YOUNG of Alaska (for himself, Mr. OBERSTAR, Mr. LoBIONDO, and Mr. FILNER) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

NOVEMBER 16, 2004

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on April 30, 2004]

A BILL

To amend various laws relating to maritime transportation,
and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Maritime Transpor-*
 3 *tation Amendments of 2004”.*

4 **SEC. 2. TABLE OF CONTENTS.**

5 *The table of contents for this Act is as follows:*

Sec. 1. Short title.

Sec. 2. Table of contents.

TITLE I—COAST GUARD

Sec. 101. Contingent expenses.

Sec. 102. Maximum service in active status for reserve rear admirals.

Sec. 103. Confidential investigative expenses.

Sec. 104. Renewal of advisory groups.

*sec. 105. Restriction on procurement of response boat-medium vessels with foreign
 manufactured engines.*

TITLE II—MARINE SAFETY AND ENVIRONMENTAL PROTECTION

Sec. 201. Enforcement.

Sec. 202. In rem liability for civil penalties.

Sec. 203. Delegation of port security authority.

Sec. 204. Notification of deficiencies.

Sec. 205. Drug testing reporting.

Sec. 206. Judicial review of National Transportation Safety Board final orders.

Sec. 207. Inspection of towing vessels.

Sec. 208. Westlake chemical barge documentation.

Sec. 209. Conveyances.

Sec. 210. Authority to settle.

Sec. 211. Potable water.

Sec. 212. Interim authority for dry bulk cargo residue disposal.

6 **TITLE I—COAST GUARD**

7 **SEC. 101. CONTINGENT EXPENSES.**

8 *Section 476 of title 14, United States Code, is amend-*
 9 *ed—*

10 (1) by striking “\$7,500” and inserting
 11 “\$50,000”; and

12 (2) by striking the second sentence.

1 **SEC. 102. MAXIMUM SERVICE IN ACTIVE STATUS FOR RE-**
 2 **SERVE REAR ADMIRALS.**

3 *Section 743 of title 14, United States Code, is amended*
 4 *by striking “combined service in the grades of rear admiral*
 5 *and rear admiral (lower half)” and inserting “of service*
 6 *after the appointment of the officer to rear admiral (lower*
 7 *half)”.*

8 **SEC. 103. CONFIDENTIAL INVESTIGATIVE EXPENSES.**

9 *Section 658 of title 14, United States Code, is amended*
 10 *by striking “\$15,000 per annum” and inserting “\$45,000*
 11 *each fiscal year”.*

12 **SEC. 104. RENEWAL OF ADVISORY GROUPS.**

13 *(a) COMMERCIAL FISHING INDUSTRY VESSEL SAFETY*
 14 *ADVISORY COMMITTEE.—Section 4508(e)(1) of title 46,*
 15 *United States Code, is amended by striking “on September*
 16 *30, 2005” and inserting “on September 30, 2010”.*

17 *(b) HOUSTON-GALVESTON NAVIGATION SAFETY ADVI-*
 18 *SORY COMMITTEE.—Section 18 of the Coast Guard Author-*
 19 *ization Act of 1991 (Public Law 102–241; 105 Stat. 2213)*
 20 *is amended—*

21 *(1) in subsection (b) by striking “eighteen” and*
 22 *inserting “19”;*

23 *(2) by adding at the end of subsection (b) the fol-*
 24 *lowing:*

25 *“(12) One member representing recreational*
 26 *boating interests.”; and*

1 (3) in subsection (h) by striking “September 30,
2 2005” and inserting “September 30, 2010”.

3 (c) *LOWER MISSISSIPPI RIVER WATERWAY SAFETY*
4 *ADVISORY COMMITTEE*.—Section 19(g) of the Coast Guard
5 *Authorization Act of 1991 (Public Law 102–241)* is amend-
6 *ed by striking “September 30, 2005” and inserting “Sep-*
7 *tember 30, 2010”.*

8 (d) *GREAT LAKES PILOTAGE ADVISORY COM-*
9 *MITTEE*.—Section 9307(f)(1) of title 46, *United States*
10 *Code*, is amended by striking “September 30, 2005” and
11 *inserting “September 30, 2010”.*

12 (e) *NAVIGATION SAFETY ADVISORY COUNCIL*.—Section
13 *5(d) of the Inland Navigational Rules Act of 1980 (33*
14 *U.S.C. 2073(d))* is amended by striking “September 30,
15 *2005” and inserting “September 30, 2010”.*

16 (f) *NATIONAL BOATING SAFETY ADVISORY COUNCIL*.—
17 *Section 13110(e) of title 46, United States Code*, is amended
18 *by striking “September 30, 2005” and inserting “September*
19 *30, 2010”.*

20 (g) *TOWING SAFETY ADVISORY COMMITTEE*.—Public
21 *Law 96–380 (33 U.S.C. 1231a)* is amended in subsection
22 *(e) by striking “September 30, 2005” and inserting “Sep-*
23 *tember 30, 2010”.*

1 **SEC. 105. RESTRICTION ON PROCUREMENT OF RESPONSE**
 2 **BOAT-MEDIUM VESSELS WITH FOREIGN MAN-**
 3 **UFACTURED ENGINES.**

4 (a) *IN GENERAL.*—*Except as provided in subsection*
 5 *(b), the Coast Guard may not procure a Response Boat-*
 6 *Medium vessel if—*

7 (1) *the engine is not manufactured in the United*
 8 *States; or*

9 (2) *substantially all of the components of the en-*
 10 *gine are not produced or manufactured in the United*
 11 *States.*

12 (b) *EXCEPTION.*—*The Coast Guard may procure a ves-*
 13 *sel having an engine that does not comply with subsection*
 14 *(a) if the Secretary of the department in which the Coast*
 15 *Guard is operating determines that—*

16 (1) *the price of a vessel with an engine that com-*
 17 *plies with subsection (a) is unreasonable; or*

18 (2) *emergency circumstances exist.*

19 **TITLE II—MARINE SAFETY AND**
 20 **ENVIRONMENTAL PROTECTION**

21 **SEC. 201. ENFORCEMENT.**

22 (a) *IN GENERAL.*—*Chapter 701 of title 46, United*
 23 *States Code, is amended by adding at the end the following:*

1 **“§ 70118. Firearms, arrests, and seizure of property**

2 *“Subject to guidelines approved by the Secretary,*
 3 *members of the Coast Guard may, in the performance of*
 4 *official duties—*

5 *“(1) carry a firearm; and*

6 *“(2) while at a facility—*

7 *“(A) make an arrest without warrant for*
 8 *any offense against the United States committed*
 9 *in their presence; and*

10 *“(B) seize property as otherwise provided*
 11 *by law.*

12 **“§ 70119. Enforcement by State and local officers**

13 *“(a) IN GENERAL.—Any State or local government*
 14 *law enforcement officer who has authority to enforce State*
 15 *criminal laws may make an arrest for violation of a secu-*
 16 *rity zone regulation under section 1 of title II of the Act*
 17 *of June 15, 1917 (chapter 30; 50 U.S.C. 191) or security*
 18 *or safety zone regulation under section 7(b) of the Ports and*
 19 *Waterways Safety Act (33 U.S.C. 1226(b)) prescribed by*
 20 *a Coast Guard official authorized by law to prescribe such*
 21 *regulations, if—*

22 *“(1) such violation is a felony; and*

23 *“(2) the officer has reasonable grounds to believe*
 24 *that the person to be arrested has committed or is*
 25 *committing such violation.*

1 “(b) *OTHER POWERS NOT AFFECTED.*—*The provisions*
 2 *of this section are in addition to any power conferred by*
 3 *law to such officers. This section shall not be construed as*
 4 *a limitation of any power conferred by law to such officers,*
 5 *or any other officer of the United States or any State. This*
 6 *section does not grant to such officers any powers not au-*
 7 *thorized by the law of the State in which those officers are*
 8 *employed.”.*

9 (b) *CLERICAL AMENDMENT.*—*The chapter analysis at*
 10 *the beginning of chapter 701 of title 46, United States Code,*
 11 *is amended by adding at the end the following:*

“70118. *Firearms, arrests, and seizure of property.*

“70119. *Enforcement by State and local officers.”.*

12 **SEC. 202. IN REM LIABILITY FOR CIVIL PENALTIES.**

13 (a) *MARITIME TRANSPORTATION SECURITY ACT.*—

14 (1) *IN GENERAL.*—*Section 70117 of title 46,*
 15 *United States Code, is amended—*

16 (A) *by striking the section heading and in-*
 17 *serting the following:*

18 **“§ 70117. Penalties”;**

19 (B) *by inserting “(a) IN GENERAL.—” be-*
 20 *fore “Any”; and*

21 (C) *by adding at the end the following:*

22 “(b) *IN REM LIABILITY.*—*Any vessel that is used in*
 23 *violation of this chapter, or of any regulation issued under*
 24 *this chapter, shall be liable in rem for any civil penalty*

1 *assessed pursuant to subsection (a) and may be proceeded*
 2 *against in the United States district court for any district*
 3 *in which such vessel may be found.*

4 “(c) *WITHHOLDING OF CLEARANCE.*—

5 “(1) *IN GENERAL.*—If any owner, agent, master,
 6 officer, or person in charge of a vessel is liable for a
 7 penalty or fine under subsection (a), or if reasonable
 8 cause exists to believe that the owner, agent, master,
 9 officer, or person in charge may be subject to a pen-
 10 alty or fine under subsection (a), the Secretary may,
 11 with respect to such vessel, refuse or revoke any clear-
 12 ance required by section 4197 of the Revised Statutes
 13 of the United States (46 U.S.C. App. 91).

14 “(2) *CLEARANCE UPON FILING OF BOND OR*
 15 *OTHER SURETY.*—The Secretary may require the fil-
 16 ing of a bond or other surety as a condition of grant-
 17 ing clearance refused or revoked under this sub-
 18 section.”.

19 (2) *CONFORMING AMENDMENT.*—The chapter
 20 analysis for chapter 701 of title 46, United States
 21 Code, is amended by revising the item relating to sec-
 22 tion 70117 to read as follows:

“70117. *Penalties.*”.

23 (b) *MAGNUSON ACT.*—Section 2 of title II of the Act
 24 of June 15, 1917 (chapter 30; 50 U.S.C. 192), is amended—

1 (1) *in subsection (c) by striking “Act” each time*
2 *it appears and inserting “title”; and*

3 (2) *by inserting at the end the following:*

4 “(d) *IN REM LIABILITY.*—Any vessel that is used in
5 *violation of this title, or of any regulation issued under this*
6 *title, shall be liable in rem for any civil penalty assessed*
7 *pursuant to subsection (c) and may be proceeded against*
8 *in the United States district court for any district in which*
9 *such vessel may be found.*

10 “(e) *WITHHOLDING OF CLEARANCE.*—

11 “(1) *IN GENERAL.*—If any owner, agent, master,
12 *officer, or person in charge of a vessel is liable for a*
13 *penalty or fine under subsection (c), or if reasonable*
14 *cause exists to believe that the owner, agent, master,*
15 *officer, or person in charge may be subject to a pen-*
16 *alty or fine under this section, the Secretary may,*
17 *with respect to such vessel, refuse or revoke any clear-*
18 *ance required by section 4197 of the Revised Statutes*
19 *of the United States (46 U.S.C. App. 91).*

20 “(2) *CLEARANCE UPON FILING OF BOND OR*
21 *OTHER SURETY.*—The Secretary may require the fil-
22 *ing of a bond or other surety as a condition of grant-*
23 *ing clearance refused or revoked under this sub-*
24 *section.”.*

1 **SEC. 203. DELEGATION OF PORT SECURITY AUTHORITY.**

2 *The undesignated text following paragraph (b) of the*
3 *second unnumbered paragraph of section 1 of title II of the*
4 *Act of June 15, 1917 (chapter 30; 40 Stat. 220; 50 U.S.C.*
5 *191) is amended by adding at the beginning the following:*
6 *“The President may delegate the authority to issue such*
7 *rules and regulations to the Secretary of the department*
8 *in which the Coast Guard is operating.”.*

9 **SEC. 204. NOTIFICATION OF DEFICIENCIES.**

10 (a) *CORRECTION OF DEFICIENCIES.*—Section
11 *3313(b)(1) of title 46, United States Code, is amended by*
12 *striking “be ordered in writing to correct the noted defi-*
13 *ciencies promptly” and inserting “promptly correct any de-*
14 *ficiencies”.*

15 (b) *NOTIFICATION TO VESSEL.*—

16 (1) *IN GENERAL.*—Section 3712 of title 46,
17 *United States Code, is amended to read as follows:*

18 **“§ 3712. Notification of deficiencies**

19 *“The Secretary shall notify the owner, charterer, man-*
20 *aging operator, agent, master, or individual in charge of*
21 *a vessel of deficiencies found during any inspection or ex-*
22 *amination under this chapter.”.*

23 (2) *CLERICAL AMENDMENT.*—The chapter anal-
24 *ysis for chapter 37 of title 46, United States Code, is*

1 *amended by striking the item related to section 3712*
2 *and inserting the following:*

“3712. Notification of deficiencies.”.

3 **SEC. 205. DRUG TESTING REPORTING.**

4 *(a) IN GENERAL.—Chapter 77 of title 46, United*
5 *States Code, is amended by adding at the end:*

6 **“§ 7706. Drug testing reporting**

7 *“(a) RELEASE OF DRUG TEST RESULTS TO COAST*
8 *GUARD.—Not later than 2 weeks after receiving from a*
9 *Medical Review Officer a report of a verified positive drug*
10 *test or verified test violation by a civilian employee of a*
11 *Federal agency, an officer in the Public Health Services,*
12 *or an officer in the National Oceanic and Atmospheric Ad-*
13 *ministration Commissioned Officer Corps, who is employed*
14 *in any capacity on board a vessel operated by the agency,*
15 *the head of the agency shall release to the Commandant of*
16 *the Coast Guard the report.*

17 *“(b) STANDARDS, PROCEDURES, AND REGULATIONS.—*
18 *The head of a Federal agency shall carry out a release under*
19 *subsection (a) in accordance with the standards, procedures,*
20 *and regulations applicable to the disclosure and reporting*
21 *to the Coast Guard of drug tests results and drug test*
22 *records of individuals employed on vessels documented*
23 *under the laws of the United States.*

24 *“(c) WAIVER.—Notwithstanding section 503(e) of the*
25 *Supplemental Appropriations Act, 1987 (5 U.S.C. 7301*

1 *note), the report of a drug test of an employee may be re-*
 2 *leased under this section without the prior written consent*
 3 *of the employee.”.*

4 *(b) CONFORMING AMENDMENT.—The chapter analysis*
 5 *for chapter 77 of title 46, United States Code, is amended*
 6 *by adding at the end the following:*

“7706. Drug testing reporting.”.

7 **SEC. 206. JUDICIAL REVIEW OF NATIONAL TRANSPOR-**
 8 **TATION SAFETY BOARD FINAL ORDERS.**

9 *Section 1153 of title 49, United States Code, is amend-*
 10 *ed by adding at the end the following:*

11 *“(d) COMMANDANT SEEKING JUDICIAL REVIEW OF*
 12 *MARITIME MATTERS.—If the Commandant of the Coast*
 13 *Guard decides that an order of the Board issued pursuant*
 14 *to a review of a Coast Guard action under section 1133*
 15 *of this title will have an adverse impact on maritime safety*
 16 *or security, the Commandant may obtain judicial review*
 17 *of the order under subsection (a). The Commandant, in the*
 18 *official capacity of the Commandant, shall be a party to*
 19 *the judicial review proceedings.”.*

20 **SEC. 207. INSPECTION OF TOWING VESSELS.**

21 *(a) VESSELS SUBJECT TO INSPECTION.—Section 3301*
 22 *of title 46, United States Code, is amended by adding at*
 23 *the end the following:*

24 *“(15) towing vessels.”.*

1 (b) *SAFETY MANAGEMENT SYSTEM*.—Section 3306 of
 2 chapter 33 of title 46, United States Code, is amended by
 3 adding at the end the following:

4 “(j) *The Secretary may establish by regulation a safety*
 5 *management system appropriate for the characteristics,*
 6 *methods of operation, and nature of service of towing ves-*
 7 *sels.*”.

8 **SEC. 208. WESTLAKE CHEMICAL BARGE DOCUMENTATION.**

9 *Notwithstanding section 27 of the Merchant Marine*
 10 *Act, 1920 (46 App. U.S.C. 883) and section 12106 of title*
 11 *46, United States Code, the Secretary of the department in*
 12 *which the Coast Guard is operating may issue a certificate*
 13 *of documentation with appropriate endorsement for em-*
 14 *ployment in the coastwise trade for each of the following*
 15 *vessels:*

16 (1) *Barge WCAO–101 (United States official*
 17 *number 506677).*

18 (2) *Barge WCAO–102 (United States official*
 19 *number 506851).*

20 (3) *Barge WCAO–103 (United States official*
 21 *number 506852).*

22 (4) *Barge WCAO–104 (United States official*
 23 *number 507172).*

24 (5) *Barge WCAO–105 (United States official*
 25 *number 507173).*

1 (6) *Barge WCAO–106 (United States official*
2 *number 620514).*

3 (7) *Barge WCAO–107 (United States official*
4 *number 620515).*

5 (8) *Barge WCAO–108 (United States official*
6 *number 620516).*

7 (9) *Barge WCAO–3002 (United States official*
8 *number 295147).*

9 (10) *Barge WCAO–3004 (United States official*
10 *number 517396).*

11 **SEC. 209. CONVEYANCES.**

12 (a) *IN GENERAL.—The Commandant of the Coast*
13 *Guard shall convey all right, title, and interest of the*
14 *United States in and to each of the vessels described in sub-*
15 *section (b) to the recipient listed in subsection (b) with re-*
16 *spect to that vessel, without consideration, if the recipient*
17 *complies with the conditions under subsection (c).*

18 (b) *VESSEL DESCRIBED.—The vessels and recipients*
19 *referred to in subsection (a) are the following:*

20 (1) *The Coast Guard 44-foot Motor Life Boat*
21 *Vessel #44345 formally assigned to the Group Grand*
22 *Haven Command, to the city of Ludington, Michigan.*

23 (2) *One decommissioned “Balsam Class” 180-*
24 *foot Coast Guard vessel (whether decommissioned be-*
25 *fore or after the date of enactment of this Act) to CAS*

1 *Foundation, Inc. (a nonprofit corporation under the*
2 *laws of the State of Indiana).*

3 (c) *CONDITIONS.—As a condition of any conveyance*
4 *of a vessel under subsection (a), the Commandant shall re-*
5 *quire the recipient to—*

6 (1) *agree—*

7 (A) *to use the vessel for purposes of edu-*
8 *cation and historical display;*

9 (B) *not to use the vessel for commercial*
10 *transportation purposes;*

11 (C) *to make the vessel available to the*
12 *United States Government if needed for use by*
13 *the Commandant in time of war or a national*
14 *emergency; and*

15 (D) *to hold the Government harmless for*
16 *any claims arising from exposure to hazardous*
17 *materials, including asbestos and poly-*
18 *chlorinated biphenyls (PCBs), after conveyance*
19 *of the vessel, except for claims arising from use*
20 *of the vessel by the Government under subpara-*
21 *graph (C);*

22 (2) *have funds available that will be committed*
23 *to operate and maintain the vessel conveyed in good*
24 *working condition, in the form of cash, liquid assets,*
25 *or a written loan commitment; and*

1 (3) agree to any other conditions the Com-
2 mandant considers appropriate.

3 (d) *MAINTENANCE AND DELIVERY OF VESSEL.*—Prior
4 to conveyance of a vessel under this section, the Com-
5 mandant shall, to the extent practical, and subject to other
6 Coast Guard mission requirements, make every effort to
7 maintain the integrity of the vessel and its equipment until
8 the time of delivery. The Commandant shall deliver a vessel
9 conveyed under this section at the place where the vessel
10 is located, in its present condition, and without cost to the
11 Government. The conveyance of a vessel under this section
12 shall not be considered a distribution in commerce for pur-
13 poses of section 6(e) of Public Law 94–469 (15 U.S.C.
14 2605(e)).

15 (e) *OTHER EXCESS EQUIPMENT.*—The Commandant
16 may convey to the recipient of a vessel under this section
17 any excess equipment or parts from other decommissioned
18 Coast Guard vessels for use to enhance the vessel’s oper-
19 ability and function as an historical display.

20 **SEC. 210. AUTHORITY TO SETTLE.**

21 Section 1015 of the Oil Pollution Act of 1990 (33
22 U.S.C. 2715) is amended by adding at the end the following:

23 “(d) *AUTHORITY TO SETTLE.*—The head of any de-
24 partment or agency responsible for recovering amounts for
25 which a person is liable under this title may consider, com-

1 *promise, and settle a claim for such amounts, including*
 2 *such costs paid from the Fund, if the claim has not been*
 3 *referred to the Attorney General. In any case in which the*
 4 *total amount to be recovered may exceed \$500,000 (exclud-*
 5 *ing interest), a claim may be compromised and settled*
 6 *under the preceding sentence only with the prior written*
 7 *approval of the Attorney General.”.*

8 **SEC. 211. POTABLE WATER.**

9 *Section 3305(a) of title 46, United States Code, is*
 10 *amended—*

11 *(1) by redesignating paragraphs (4) and (5) in*
 12 *order as paragraphs (5) and (6); and*

13 *(2) by inserting after paragraph (3) the fol-*
 14 *lowing:*

15 *“(4) has an adequate supply of potable water for*
 16 *drinking and washing by the passengers and crew;”.*

17 **SEC. 212. INTERIM AUTHORITY FOR DRY BULK CARGO RES-**
 18 **IDUE DISPOSAL.**

19 *(a) EXTENSION OF INTERIM AUTHORITY.—The Sec-*
 20 *retary of the department in which the Coast Guard is oper-*
 21 *ating shall continue to implement and enforce the notice*
 22 *to mariners entitled “2004 Enforcement Policy for Cargo*
 23 *Residues on the Great Lakes” in accordance with such no-*
 24 *tice until the earlier of—*

1 (1) *the date regulations are promulgated under*
2 *subsection (b) for the regulation of incidental dis-*
3 *charges from vessels of dry bulk cargo residue into the*
4 *waters of the Great Lakes under the jurisdiction of the*
5 *United States; or*

6 (2) *September 30, 2006.*

7 (b) *PERMANENT AUTHORITY.—The Commandant of*
8 *the Coast Guard may promulgate regulations governing the*
9 *discharge of dry bulk cargo residue on the Great Lakes.*

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2^D Session

H. R. 4251

[Report No. 108-775]

A BILL

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transportation, and for other purposes.

NOVEMBER 16, 2004

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